

or any other applicable Federal statute. Activities authorized under any other part of this subchapter or under any other Federal law that use (or propose to use) an existing OCS facility are not subject to this subpart.

(b) The MMS will issue an Alternate Use RUE for activities authorized under this subpart.

(c) At the discretion of the Director, an Alternate Use RUE may:

(1) Permit alternate use activities to occur at an existing facility that is currently in use under an approved OCS lease; or

(2) Limit alternate use activities at the existing facility until after previously authorized activities at the facility have ceased and the OCS lease terminates.

§§ 285.1001—285.1003 [Reserved]

REQUESTING AN ALTERNATE USE RUE

§ 285.1004 What must I do before I request an Alternate Use RUE?

If you are not the owner of the existing facility on the OCS and the lessee of the area in which the facility is located, you must contact the lessee and owner of the facility and reach a preliminary agreement as to the proposed activity for the use of the existing facility.

§ 285.1005 How do I request an Alternate Use RUE?

To request an Alternate Use RUE, you must submit to MMS all of the following:

(a) The name, address, e-mail address, and phone number of an authorized representative.

(b) A summary of the proposed activities for the use of an existing OCS facility, including:

(1) The type of activities that would involve the use of the existing OCS facility;

(2) A description of the existing OCS facility, including a map providing its location on the lease block;

(3) The names of the owner of the existing OCS facility, the operator, the lessee, and any owner of operating rights on the lease at which the facility is located;

(4) A description of additional structures or equipment that will be re-

quired to be located on or in the vicinity of the existing OCS facility in connection with the proposed activities;

(5) A statement indicating whether any of the proposed activities are intended to occur before existing activities on the OCS facility have ceased; and

(6) A statement describing how existing activities at the OCS facility will be affected if proposed activities are to occur at the same time as existing activities at the OCS facility.

(c) A statement affirming that the proposed activities sought to be approved under this subpart are not otherwise authorized by other provisions in this subchapter or any other Federal law.

(d) Evidence that you meet the requirements of § 285.106, as required by § 285.107.

(e) The signatures of the applicant, the owner of the existing OCS facility, and the lessee of the area in which the existing facility is located.

§ 285.1006 How will MMS decide whether to issue an Alternate Use RUE?

(a) We will consider requests for an Alternate Use RUE on a case-by-case basis. In considering such requests, we will consult with relevant Federal agencies and evaluate whether the proposed activities involving the use of an existing OCS facility can be conducted in a manner that:

(1) Ensures safety and minimizes adverse effects to the coastal and marine environments, including their physical, atmospheric, and biological components, to the extent practicable;

(2) Does not inhibit or restrain orderly development of OCS mineral or energy resources; and

(3) Avoids serious harm or damage to, or waste of, any natural resource (including OCS mineral deposits and oil, gas, and sulphur resources in areas leased or not leased), any life (including fish and other aquatic life), or property (including sites, structures, or objects of historical or archaeological significance);

(4) Is otherwise consistent with subsection 8(p) of the OCS Lands Act; and

(5) MMS can effectively regulate.

§ 285.1007

(b) Based on the evaluation that we perform under paragraph (a) of this section, the MMS may authorize or reject, or authorize with modifications or stipulations, the proposed activity.

§ 285.1007 What process will MMS use for competitively offering an Alternate Use RUE?

(a) An Alternate Use RUE must be issued on a competitive basis unless MMS determines, after public notice of the proposed Alternate Use RUE, that there is no competitive interest.

(b) We will issue a public notice in the FEDERAL REGISTER to determine if there is competitive interest in using the proposed facility for alternate use activities. The MMS will specify a time period for members of the public to express competitive interest.

(c) If we receive indications of competitive interest within the published timeframe, we will proceed with a competitive offering. As part of such competitive offering, each competing applicant must submit a description of the types of activities proposed for the existing facility, as well as satisfactory evidence that the competing applicant qualifies to hold a lease or grant on the OCS, as required in §§ 285.106 and 285.107, by a date we specify. We may request additional information from competing applicants, as necessary, to adequately evaluate the competing proposals.

(d) We will evaluate all competing proposals to determine whether:

(1) The proposed activities are compatible with existing activities at the facility; and

(2) We have the expertise and resources available to regulate the activities effectively.

(e) We will evaluate all proposals under the requirements of NEPA, CZMA, and other applicable laws.

(f) Following our evaluation, we will select one or more acceptable proposals for activities involving the alternate use of an existing OCS facility, notify the competing applicants, and submit each acceptable proposal to the lessee and owner of the existing OCS facility. If the lessee and owner of the facility agree to accept a proposal, we will proceed to issue an Alternate Use RUE. If the lessee and owner of the facility are

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unwilling to accept any of the proposals that we deem acceptable, we will not issue an Alternate Use RUE.

§§ 285.1008–285.1009 [Reserved]

ALTERNATE USE RUE ADMINISTRATION

§ 285.1010 How long may I conduct activities under an Alternate Use RUE?

(a) We will establish on a case-by-case basis, and set forth in the Alternate Use RUE, the length of time for which you are authorized to conduct activities approved in your Alternate Use RUE instrument.

(b) In establishing this term, MMS will consider the size and scale of the proposed alternate use activities, the type of alternate use activities, and any other relevant considerations.

(c) The MMS may authorize renewal of Alternate Use RUEs at its discretion.

§ 285.1011 What payments are required for an Alternate Use RUE?

We will establish rental or other payments for an Alternate Use RUE on a case-by-case basis, as set forth in the Alternate Use RUE grant, depending on our assessment of the following factors:

(a) The effect on the original OCS Lands Act approved activity;

(b) The size and scale of the proposed alternate use activities;

(c) The income, if any, expected to be generated from the proposed alternate use activities; and

(d) The type of alternate use activities.

§ 285.1012 What financial assurance is required for an Alternate Use RUE?

(a) The holder of an Alternate Use RUE will be required to secure financial assurances in an amount determined by MMS that is sufficient to cover all obligations under the Alternate Use RUE, including decommissioning obligations, and must retain such financial assurance amounts until all obligations have been fulfilled, as determined by MMS.

(b) We may revise financial assurance amounts, as necessary, to ensure that there is sufficient financial assurance